

THRESHOLD NOTIFICATION (§10232)

REPORT EFFECTIVE DATE

RE 853 (Rev. 5/11)

GENERAL INFORMATION

- ❖ This form is to notify the Department of Real Estate (DRE) when a broker or corporation either:
 - a) Meets or expects to meet the "threshold" criteria of Section 10232 (*see page 3 for complete text of §10232*),
 - b) Presently reports as meeting the "threshold" criteria but is changing the fiscal year reporting month or the name of the broker/corporation, or
 - c) Has reported in the past under the "threshold" criteria of Section 10232 but no longer meets the criteria.
- ❖ Monetary penalties shall be assessed against any real estate broker failing to notify the DRE in writing of meeting the criteria of Section 10232 (*see page 3 for complete text of §10236.2*). Disciplinary action may also result from non-compliance with the provisions of these sections.
- ❖ Complete the appropriate sections of this form and mail to: Department of Real Estate, Mortgage Loan Activities Unit, P.O. Box 187000, Sacramento, CA 95818-7000.

PART A

LICENSE INFORMATION

| | |
|---|--|
| 1. NAME OF BROKER OR CORPORATION | 2. LICENSE ID NUMBER |
| 3. DESIGNATED OFFICER (IF CORPORATION) | 4. LIST THE MONTH THE FISCAL YEAR ENDS |
| 5. CURRENT BUSINESS ADDRESS (STREET ADDRESS, CITY, STATE, AND ZIP CODE) | |
| 6. DBA'S (IF ANY) | |
| 7. BRANCH OFFICE ADDRESS(ES) (ATTACH A LIST IF NECESSARY) | |

PART B

TYPE OF REPORT — Check appropriate box(es)

- ☐ **1. Initial Notification** — Broker meets or expects to meet "threshold" criteria — [After receipt of this "initial notification", DRE will forward additional information and forms regarding the requirements imposed on a broker meeting the criteria of §10232.] *Complete Parts C and F.*
- ☐ **2. Change Of Fiscal Year Reporting Month** — Broker must be currently reporting as "threshold". *Complete Parts D and F.*
- ☐ **3. Change of Licensed (Company) Name** — Broker must be currently reporting as "threshold". *Complete Parts D and F.*
- ☐ **4. No Longer Meets Criteria** — Broker has reported as "threshold" in the past but no longer meets or expects to meet the criteria. *Complete Parts E and F.*

PART C

INITIAL NOTIFICATION TO DRE

If #1 in Part B is checked, mark all boxes that apply to your volume of business.

- ☐ In the past three months, the broker/corporation negotiated any combination of two or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than \$250,000.
- ☐ In the past six months, the broker/corporation negotiated any combination of five or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than \$500,000.
- ☐ In the past 12 months, the broker/corporation negotiated any combination of ten or more loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than \$1,000,000.
- ☐ In the past 12 months, the broker/corporation collected loan payments in an aggregate amount of \$250,000 or more.

PART D**CHANGE OF FISCAL YEAR OR LICENSED (COMPANY) NAME**

IF #2 IN PART B IS CHECKED, LIST THE PREVIOUS REPORTING MONTH AND DAY.

IF #3 IN PART B IS CHECKED, LIST THE FORMER LICENSED NAME.

PART E**NO LONGER MEETS CRITERIA**

If item #4 in Part B is checked the information requested in this section is to be completed. If the criteria of Section 10232 is met in the future an initial notification must again be submitted.

During the immediate preceding periods shown below, the volume of business was approximately:

| | <i>Past 12 Months</i> | <i>Past 6 Months</i> | <i>Past 3 Months</i> |
|--|-----------------------|----------------------|----------------------|
| Number of negotiated loans and/or sales | | | |
| Total dollar volume of negotiated loans and/or sales | \$ | \$ | \$ |
| Total collections on loans serviced | \$ | \$ | \$ |

PART F**CERTIFICATION**

I certify under penalty of perjury that the foregoing information is true and correct to the best of my knowledge and belief.

SIGNATURE OF BROKER OR DESIGNATED OFFICER (IF CORPORATION)

DATE



PRINTED NAME OF BROKER OR DESIGNATED OFFICER

BUSINESS TELEPHONE NUMBER

Detach and retain for your use.

Business and Professions Code 10232 and 10236.2

Section 10232.

- (a) Except as otherwise expressly provided, the provisions of Sections 10232.2 and 10232.25 are applicable to every real estate broker who intends or reasonably expects in a successive 12 months to do any of the following:
- (1) Negotiate a combination of 10 or more of the following transactions pursuant to subdivision (d) or (e) of Section 10131 or Section 10131.1 in an aggregate amount of more than one million dollars (\$1,000,000):
 - (A) Loans secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.
 - (B) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.
 - (C) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real property as the owner of those notes or contracts.
 - (2) Make collections of payments in an aggregate amount of two hundred fifty thousand dollars (\$250,000) or more on behalf of owners of promissory notes secured directly or collaterally by liens on real property, owners of real property sales contracts, or both.
 - (3) Make collections of payments in an aggregate amount of two hundred fifty thousand dollars (\$250,000) or more on behalf of obligors of promissory notes secured directly or collaterally by liens on real property, lenders of real property sales contracts, or both. Persons under common management, direction or control in conducting the activities enumerated above shall be considered as one person for the purpose of applying the above criteria.
- (b) The negotiation of a combination of two or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than two hundred fifty thousand dollars (\$250,000) in any three successive months or a combination of five or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than five hundred thousand dollars (\$500,000) in any successive six months shall create a rebuttable presumption that the broker intends to negotiate new loans and sales and exchanges of an aggregate amount that will meet the criteria of subdivision (a).
- (c) In determining the applicability of Sections 10232.2 and 10232.25, loans or sales negotiated by a broker, or for which a broker collects payments or provides other servicing for the owner of the note or contract, shall not be counted in determining whether the broker meets the criteria of subdivisions (a) and (b) if any of the following apply:
- (1) The lender or purchaser is any of the following:
 - (A) The Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, and the Veterans' Administration.
 - (B) A bank or subsidiary thereof, bank holding company or subsidiary thereof, trust company, savings bank or savings and loan association or subsidiary thereof, savings bank or savings association holding company or subsidiary thereof, credit union, industrial bank or industrial loan company, commercial finance lender, personal property broker, consumer finance lender, or insurer doing business under the authority of, and in accordance with, the laws of this state, any other state, or of the United States relating to banks, trust companies, savings banks or savings associations, credit unions, industrial banks or industrial loan companies, commercial finance lenders, or insurers, as evidenced by a license, certificate, or charter issued by the United States or a state, district, territory, or commonwealth of the United States.
 - (C) Trustees of a pension, profit-sharing, or welfare fund, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars (\$15,000,000).
 - (D) A corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or a wholly owned subsidiary of that corporation.
 - (E) A syndication or other combination of any of the entities specified in subparagraph (A), (B), (C), or (D) that is organized to purchase the promissory note.
 - (F) The California Housing Finance Agency or a local housing finance agency organized under the Health and Safety Code.
 - (G) A licensed residential mortgage lender or servicer acting under the authority of that license.
 - (H) An institutional investor that issues mortgage-backed securities, as specified in paragraph (11) of subdivision (i) of Section 50003 of the Financial Code.
 - (I) A licensed real estate broker selling all or part of the loan, the note, or the contract to a lender or purchaser specified in subparagraphs (A) to (H), inclusive, of this subdivision.
 - (2) The loan or sale is negotiated, or the loan or contract is being serviced for the owner, under authority of a permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 et seq. of the Corporations Code).

- (3) The transaction is subject to the requirements of Article 3 (commencing with Section 2956) of Chapter 2 of Title 14 of Part 4 of the Civil Code.
- (d) If two or more real estate brokers who are not under common management, direction, or control, cooperate in the negotiation of a loan or the sale or exchange of a promissory note or real property sales contract and share in the compensation for their services, the dollar amount of the transaction shall be allocated according to the ratio that the compensation received by each broker bears to the total compensation received by all brokers for their services in negotiating the loan or sale or exchange.
- (e) A real estate broker who on the effective date of this section satisfies the criteria of subdivision (a) or (b) shall, within 30 days thereafter, notify the Department of Real Estate in writing of that fact. A broker who first meets any of the criteria of subdivision (a) or (b) after January 1, 1982, shall notify the department in writing within 30 days after that determination is made.

Section 10236.2.

- (a) A real estate broker who satisfies the criteria of subdivision (a) or (b) of Section 10232 and who fails to notify the Department of Real Estate, in writing, of that fact within 30 days thereafter as required by subdivision (e) of Section 10232 shall be assessed a penalty of fifty dollars (\$50) per day for each additional day written notification has not been received up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day the penalty is one hundred dollars (\$100) per day, not to exceed a total penalty of ten thousand dollars (\$10,000) regardless of the number of days, until the department receives the written notification.
- (b) The commissioner may suspend or revoke the license of any real estate broker who fails to pay a penalty imposed under this section. In addition, the commissioner may bring an action in an appropriate court of this state to collect payment of the penalty.
- (c) All penalties paid or collected under this section shall be deposited into the Real Estate Fund.